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that the site of the project is in reasonable proximity to a sufficient concentration and population of veterans that are 65 years of age and older and that there is a reasonable basis to conclude that the facility when complete will be fully occupied. This documentation must be included in the initial application submitted to VA under § 59.20.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.40 Maximum number of nursing home care and domiciliary care beds for veterans by State.

(a) Except as provided in paragraph (b) of this section, a State may not request a grant for a project to construct or acquire a new State home facility, to increase the number of beds available at a State home facility, or to replace beds at a State home facility if the project would increase the total number of State home nursing home and domiciliary beds beyond the maximum number designated for that State. The maximum number of State home nursing home and domiciliary beds designated for each State is (for maximum numbers see VA website at http://www.va.gov/About_VA/Orgs/VHA/VHAProg.htm). the number in the following chart for the State, minus the sum of the number of nursing home and domiciliary beds already in operation at State home facilities, and the number of State home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded under this part (the availability of VA and community nursing home beds in each State will also be considered at the time of grant application for bed-producing projects):

State	State home nursing home and domiciliary beds
Alabama	883
Alaska	79
Arizona	1,068
Arkansas	557
California	5,754
Colorado	717
Connecticut	738
Delaware	165
District of Columbia	104
Florida	4,471
Georgia	1,202
Hawaii	216
Idaho	233

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State	State home nursing home and domiciliary beds
Illinois	2,271
Indiana	1,209
Iowa	632
Kansas	542
Kentucky	759
Louisiana	785
Maine	301
Maryland	1,020
Massachusetts	1,348
Michigan	1,896
Minnesota	932
Mississippi	500
Missouri	1,230
Montana	198
Nebraska	355
Nevada	428
New Hampshire	264
New Jersey	1,683
New Mexico	344
New York	3,220
North Carolina	1,454
North Dakota	121
Ohio	2,530
Oklahoma	747
Oregon	804
Pennsylvania	3,173
Puerto Rico	350
Rhode Island	254
South Carolina	750
South Dakota	155
Tennessee	1,050
Texas	3,226
Utah	304
Vermont	124
Virginia	1,312
Virgin Islands	8
Washington	1,215
West Virginia	455
Wisconsin	1,070
Wyoming	93

NOTE TO PARAGRAPH (A): The provisions of 38 U.S.C. 8134 require VA to prescribe for each State the number of nursing home and domiciliary beds for which grants may be furnished. This is required to be based on the projected demand for nursing home and domiciliary care on November 30, 2009 (10 years after the date of enactment of the Veterans Millennium Health Care and Benefits Act (P.L. 106–117)), by veterans who at such time are 65 years of age or older and who reside in that State. In determining the projected demand, VA must take into account travel distances for veterans and their families.

(b) A State may request a grant for a project that would increase the total number of State nursing home and domiciliary beds beyond the maximum number for that State, if the State submits to VA, documentation to establish a need for the exception based on travel distances of at least two hours (by land transportation or any other usual mode of transportation if land

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transportation is not available) between a veteran population center sufficient for the establishment of a State home and any existing State home. The determination regarding a request for an exception will be made by the Secretary.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.50 Priority list.

(a) The Secretary will make a list prioritizing the applications that were received on or before August 15 and that were approved under § 59.20 of this part. Except as provided in paragraphs (b) and (c) of this section, applications will be prioritized from the highest to the lowest in the following order:

(1) *Priority group 1.* An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for the project. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification.

(i) *Priority group 1—subpriority 1.* An application for a project to remedy a condition, or conditions, at an existing facility that have been cited as threatening to the lives or safety of the residents in the facility by a VA Life Safety Engineer, a State or local government agency (including a Fire Marshal), or an accrediting institution (including the Joint Commission on Accreditation of Healthcare Organizations). This priority group does not include applications for the addition or replacement of building utility systems, such as heating and air conditioning systems or building features, such as roof replacements. Projects in

this subpriority will be further prioritized in the following order: seismic; building construction; egress; building compartmentalization (e.g., smoke barrier, fire walls); fire alarm/detection; asbestos/hazardous materials; and all other projects. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(ii) *Priority group 1—subpriority 2.* An application from a State that has not previously applied for a grant under 38 U.S.C. 8131–8137 for construction or acquisition of a State nursing home. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iii) *Priority group 1—subpriority 3.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a great need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iv) *Priority group 1—subpriority 4.* An application from a State for renovations to a State Home facility other than renovations that would be included in subpriority 1 of Priority group 1. Projects will be further prioritized in the following order: adult day health care construction; nursing home construction (e.g., patient privacy); code compliance under the Americans with Disabilities Act; building systems and utilities (e.g., electrical; heating, ventilation, and air conditioning (HVAC); boiler; medical gasses; roof; elevators); clinical-support facilities (e.g., for dietetics, laundry, rehabilitation therapy); and general renovation/upgrade (e.g., warehouse, storage, administration/office, multipurpose). Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).